

FACTUAL HISTORY

In a prior appeal,² the Board affirmed the hearing representative's May 17, 2011 decision affirming the denial of appellant's disability claim. The Board found that appellant failed to support that her disability for work beginning October 18, 2010 was a result of her accepted work injury. Appellant worked as a meat inspector and OWCP had accepted left leg sciatica, aggravation of lumbosacral spondylosis without myelopathy and aggravation of general osteoarthritis of the left hip. The facts of this case as set forth in the Board's prior decision are hereby incorporated by reference.³

Dr. Randy S. Buckles, the attending osteopath, reported that appellant continued to have difficulty with back pain from her fall.⁴ Appellant also had a stroke while she was off work due to her back injury and sciatica. Although she had recovered remarkably from the stroke, her back pain and sciatica persisted "and there is no way that she could continue her previous line of work." Dr. Buckles added that appellant was still being treated for right sciatica pain "and her fall continues to be the reason she initially was disabled."

On May 3, 2012 OWCP reviewed the merits of appellant's case and denied modification of its prior decision. It found that Dr. Buckles did not explain how the diagnoses associated with her hospitalization were causally related to the accepted employment injury. Dr. Buckles provided no information to demonstrate a complete factual background or medical history.

Appellant's representative requested reconsideration and submitted additional medical evidence.⁵ Dr. James A. Stuckmeyer, a Board-certified orthopedic surgeon, evaluated appellant on October 15, 2012. Appellant informed him that in January 2010 she fell down some steps at work, injuring her low back and lower extremities. She also described her occupational duties. Dr. Stuckmeyer reviewed appellant's medical treatment, including her hospitalization on October 15, 2010. Appellant had described the rapid onset of numbness from the waist down while on the processing line.

Dr. Stuckmeyer indicated that he spoke at length with appellant about her fall. Appellant felt that the development of her back symptoms would be related to the prolonged standing, repetitive bending and repetitive lifting that she performed throughout her years of employment with the employing establishment. Given that history, it was Dr. Stuckmeyer's opinion that she

² Docket No. 11-1444 (issued January 10, 2012).

³ On June 3, 2010 appellant, a meat inspector, filed a claim for compensation alleging that she sustained an occupational disease while standing and reaching from one position for an extended period of time. She continued to work her regular-duty job without restrictions.

⁴ Appellant attributed her condition to constant standing and reaching for an extended period of time and for several days in a row.

⁵ Appellant's representative requested that OWCP reconsider the Board's January 10, 2012 decision. OWCP has no such jurisdiction. The decisions and orders of the Board are final as the subject matter appeal and such decisions and orders are not subject to review, except by the Board. 20 C.F.R. § 10.501.6(d). The request is properly viewed as a request for OWCP to reconsider its own May 3, 2012 decision, which was its most recent merit decision in the case.

developed symptoms of low back pain with lower extremity radiculopathy, left greater than right, as a direct, proximate and prevailing factor of the repetitive nature of her occupational duties. He also opined that the same occupational duties aggravated her lumbosacral spondylosis and aggravated her left hip arthritis. It was also reasonable to state that, as a result of her prolonged standing, appellant developed nonocclusive deep vein thrombosis in the left lower extremity, requiring treatment. It was not Dr. Stuckmeyer's opinion that operative procedures, bilateral aortoiliac atherosclerosis stenosis or appellant's stroke were causally related to work activities, but rather were due to symptoms of peripheral vascular atherosclerotic disease. He believed that appellant was totally disabled from October 2010, her last date of employment, until the present.

In a decision dated March 14, 2013, OWCP reviewed the merits of appellant's case and denied modification of its prior decision. It found that Dr. Stuckmeyer did not present a well-reasoned explanation, supported with unequivocal findings, that appellant was admitted to the hospital in October 2010 because of one of the accepted work-related conditions.

Appellant's representative contends that OWCP erroneously denied reconsideration by relying on a Board decision that does not exist. She argued that OWCP erroneously denied reconsideration by holding that the medical evidence required to establish causal relationship must be unequivocal, rather than by rationalized medical evidence of reasonable medical certainty. Appellant's representative argued that appellant's disability beginning October 18, 2010 and continuing was causally related to her accepted employment injury, as supported by Dr. Stuckmeyer.

LEGAL PRECEDENT

FECA provides compensation for the disability of an employee resulting from personal injury sustained while in the performance of duty.⁶ A claimant seeking benefits under FECA has the burden of proof to establish the essential elements of his or her claim by the weight of the evidence,⁷ including that he or she sustained an injury in the performance of duty and that any specific condition or disability for work for which he or she claims compensation is causally related to that employment injury.⁸

The claimant must submit a rationalized medical opinion that supports a causal connection between the claimed disability and the employment injury. The medical opinion must be based on a complete factual and medical background with an accurate history of the employment injury and must explain from a medical perspective how the disabling condition is related to the injury.⁹

⁶ 5 U.S.C. § 8102(a).

⁷ *Nathaniel Milton*, 37 ECAB 712 (1986); *Joseph M. Whelan*, 20 ECAB 55 (1968) and cases cited therein.

⁸ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁹ *John A. Ceresoli, Sr.*, 40 ECAB 305 (1988).

ANALYSIS

The issue is whether the medical opinion evidence is sufficient to establish that appellant's disability beginning October 18, 2010 was causally related to one of the accepted medical conditions. Counsel correctly notes, consistent with the Board's prior decision, that appellant was required to submit a narrative medical report from a physician demonstrating an understanding of what her duties as a meat inspector entailed and addressing the specific medical conditions that OWCP accepted as resulting from those duties. She also correctly identifies those accepted medical conditions as left leg sciatica, aggravation of lumbosacral spondylosis without myelopathy and aggravation of general osteoarthritis of the left hip.

Dr. Buckles, the attending osteopath, reported that appellant continued to have difficulty with back pain from her fall. Appellant's June 3, 2010 occupational disease claim did not implicate a fall. She alleged an injury causally related to the physical demands of her position as a meat inspector, including standing and reaching for an extended period of time. OWCP accepted appellant's claim on that basis. It did not accept that she traumatically injured her low back as a result of a fall at work.

Medical conclusions based on inaccurate or incomplete histories are of diminished probative value.¹⁰ For this reason, Dr. Buckles' opinion that a fall continued to be the reason for appellant's disability is not sufficient to establish her claim for compensation.

Appellant provided the same history to Dr. Stuckmeyer, the orthopedic surgeon. She informed him that she fell down some steps at work in January 2010 and traumatically injured her low back and lower extremities. Appellant also described her occupational duties, but Dr. Stuckmeyer stated that he spoke with her at length about the fall. Dr. Stuckmeyer also found it noteworthy that Dr. Buckles had commented on the fall. The extent to which this history influenced Dr. Stuckmeyer's opinion on disability beginning October 18, 2010, reduces the probative value of his conclusion.

Dr. Stuckmeyer generally supports OWCP's acceptance of appellant's occupational disease claim. Given the history appellant provided, he found that the nature of her work duties caused low back pain with radiculopathy, left greater than right,¹¹ aggravation of lumbosacral spondylosis and aggravation of left hip arthritis.¹² It was Dr. Stuckmeyer's opinion that she was totally disabled from October 2010, her last date of employment, until the present.

¹⁰ See generally *Melvina Jackson*, 38 ECAB 443, 450 (1987) (addressing factors that bear on the probative value of medical opinions). *James A. Wyrick*, 31 ECAB 1805 (1980) (physician's report was entitled to little probative value because the history was both inaccurate and incomplete).

¹¹ OWCP did not accept chronic lumbosacral strain or radiculopathy on the right.

¹² Dr. Stuckmeyer later numbered the work-related diagnoses as: (1) chronic lumbosacral strain with bilateral radiculopathy, left side greater than right; (2) bilateral sacroiliac dysfunction; and (3) aggravation of lumbosacral spondylosis and aggravation of left hip osteoarthritis. He added that prolonged standing caused a nonocclusive deep vein thrombosis in the left lower extremity.

The Board notes that Dr. Stuckmeyer was not clear about the reasons for his opinion. Following the acceptance of her occupational injury claim, appellant was able to continue in her regular-duty position with conservative medical management. Dr. Buckles imposed no work restrictions. On October 14, 2010 appellant suffered what she described as a rapid onset of numbness from the waist down. She had been having problems with low back pain and some radiculopathy, but she had never felt pain that bad. A question therefore arises what caused this sudden severe pain and numbness was new as of that date.

Dr. Stuckmeyer did not focus on this issue. If one of the currently accepted medical conditions were responsible for appellant's hospitalization and resulting disability for work, he did not explain what had happened or what had changed to cause disability. Dr. Stuckmeyer also did not make clear whether other medical conditions—severe bilateral lower extremity ischemia and occluded left common iliac artery, requiring the placement of stents on October 22, 2010 or a nonocclusive deep vein thrombosis below the knee on the left involving the anterior tibial and peroneal veins—was in any way responsible for the onset of her symptoms, more notably on the left. Medical conclusions unsupported by rationale are of diminished probative value.¹³ As Dr. Stuckmeyer did not provide sufficient medical rationale to establish causal relationship, the Board finds that appellant has not met her burden of proof. The Board will therefore affirm OWCP's March 14, 2013 decision.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

Appellant's representative argues that OWCP erroneously denied reconsideration by relying on a Board decision that does not exist. To be clear, OWCP granted appellant's reconsideration request and reviewed the merits of her case. Arguments that OWCP abused its discretion in denying the request are misplaced.

Although the medical opinion of a physician supporting causal relationship does not have to reduce the cause or etiology of a disease or condition to an absolute medical certainty, neither can such opinion be speculative or equivocal.¹⁴ This is consistent with the requirement that causal relationship be established by rationalized medical opinion given to a reasonable medical certainty.

CONCLUSION

The Board finds that appellant has not met her burden to establish that her disability beginning October 18, 2010 was causally related to one of the accepted medical conditions. Although Dr. Stuckmeyer's opinion is generally supportive, it does not adequately address the issue of causal relationship.

¹³ *Ceferino L. Gonzales*, 32 ECAB 1591 (1981); *George Randolph Taylor*, 6 ECAB 968 (1954).

¹⁴ *Philip J. Deroo*, 39 ECAB 1294 (1988).

ORDER

IT IS HEREBY ORDERED THAT the March 14, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 2, 2014
Washington, DC

Alec J. Koromilas, Alternate Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board